

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN THE MATTER OF:

Stateburg Clearing & Excavation, Inc.

Debtor.

Case No. 01-10334-W

Chapter 7

Asset Case

FILED
2003 JAN -9 PM 4:18
U.S. BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

**NOTICE OF OPPORTUNITY FOR HEARING AND APPLICATION
FOR SALE OF ASSETS FREE AND CLEAR OF LIENS**

TO: ALL CREDITORS AND PARTIES IN INTEREST:

YOU ARE HEREBY NOTIFIED on January 9, 2003, Ralph C. McCullough, II, as Trustee in the above-referenced bankruptcy filed this Application for Sale of Assets Free and Clear of Liens in which he proposes to sell the property herein described free and clear of all liens and encumbrances according to the terms and conditions stated below. A copy of the proposed Order Authorizing Sale of Assets Free and Clear of Liens accompanies this Notice and Application.

TAKE FURTHER NOTICE that any response, return and/or objection to the Application should be filed with the Clerk of the Bankruptcy Court and served on all parties in interest within twenty (20) days from the date of this notice.

TAKE FURTHER NOTICE that no hearing will be held on this Application unless a response, return and/or objection is timely filed and served, in which case, the Court will conduct a hearing on **February 25, 2003 at 9:30 a.m.** at the United States Bankruptcy Court, District of South Carolina, 1100 Laurel Street, Columbia, South Carolina. No further notice of this hearing will be given.

TYPE OF SALE: Private Sale with reserve

PROPERTY TO BE SOLD:

- (1) Real estate described as 5 acres of unimproved land located in the Township of Stateburg, Sumter, Sumter County, SC, and known as "Tracts X and Z". TMS # 093-05-03-022 and 093-05-03-026.
- (2) Debtor's interest in office furniture and office equipment to include, but not to be limited to, computer equipment, a desk, and filing cabinets.
- (3) 1986 Gooseneck (Hudson) trailer.

PROPERTY IS SOLD "AS IS, WHERE IS"

PRICE:

- (1) \$8,000.00
- (2) \$750.00
- (3) \$1,000.00

167
168

APPRAISAL VALUE:

- (1) Purchase price 1 year ago \$10,000.00.
- (2) \$1,500.00 per Debtor's schedules.
- (3) \$5,000.00 per Debtor's schedules.

BUYER: Kevin Sugar.

BUYER IS THE PRESIDENT AND SOLE SHAREHOLDER OF THE DEBTOR.

PLACE AND TIME OF SALE: Closing on the real estate and sale of personal property will be held within 15 days of the entry of the Order Authorizing Sale, unless otherwise agreed to by the parties.

SALES AGENT/AUCTIONEER/BROKER: NONE.

COMPENSATION TO SALES AGENT/AUCTIONEER/BROKER, ETC.: NONE.

ESTIMATED TRUSTEE'S COMPENSATION ON SALE: Approximately \$1,725.00, however Trustee's compensation will not exceed the limits set forth in 11 U.S.C. §326(a).

LIENS/MORTGAGES/SECURITY INTERESTS ENCUMBERING PROPERTY: The Trustee has completed a UCC search and has determined that there are no liens on the personal property. The Trustee is informed and believes that the 1986 Gooseneck (Hudson) trailer is not a titled trailer and therefore, will transfer to purchaser without a Certificate of Title. The title search indicates no liens on the real estate with the exception of 3 tax liens filed by the South Carolina Department of Revenue. However, each of the 3 liens may be avoided by the Trustee because they were filed within the 90 days of the Debtor's Chapter 11 filing (11 U.S.C. §547) or were filed after the bankruptcy was filed (11 U.S.C. §549). The Trustee will allow these tax claims as general unsecured claims with priority pursuant to 11 U.S.C. §507(a)(8).

All tax liens as defined in 11 U.S.C. §724(b) of the United States Bankruptcy Code, including real and personal property taxes, if allowed, which may be due now or after the closing on the sale will be treated as secured tax claims pursuant to 11 U.S.C. §724(b) and will be subordinate to all administrative claims. The property subject to this sale will be sold free and clear of said tax liens with the liens to attach to the sale proceeds.

EXPENSES OF SALE: EXPENSES OF SALE: Expenses of sale will include, but not be limited to, legal fees and expenses to Finkel & Altman, L.L.C. to close the sale on the real estate; approximately \$29.60 in deed transfer fees to the Sumter County Clerk of Court; \$10.00 for recording the deed to the Sumter County Clerk of Court; delinquent real estate taxes for 2002 in the approximate amount of \$239.97; the estate's pro-rata share of 2003 real estate taxes on the above described real property in the approximate amount of \$30.64; \$293.00 to Esquire Abstract for the title search on the above described real property; all to be paid at closing, except for the legal fees and costs to Finkel and Altman, L.L.C.

DEBTOR'S EXEMPTION: NONE.

PROCEEDS ESTIMATED TO BE RETAINED BY ESTATE: \$9,146.79.

Applicant is informed and believes that it would be in the best interest of the estate to sell said property by Private Sale. Applicant also believes that the funds to be recovered for the estate from the sale of said property justify its sale and the filing of this Application.

Any party objecting to the trustee's sale must do so in writing, and in accordance with SC LBR 9014-1. All objections should be filed with the Clerk of Court, United States Bankruptcy Court, 1100 Laurel Street, Post Office Box 1448, Columbia, South Carolina 29202, with a copy served on the Trustee, trustee or debtor in possession, as applicable, at the address shown below. A copy of the objection should also be served on the United States Trustee, Strom Thurmond Federal Building, 1835 Assembly Street, Suite 953, Columbia, South Carolina 29201. **All objections must be filed and served within twenty (20) days from the date of this notice in accordance with the terms recited herein.** If an objection is filed and served, a hearing will be held on the objection at the date and time noted on the Notice of Application and Opportunity for Hearing.

The Court may consider additional offers at the hearing held on an objection to the sale. The Court may order at this hearing that the property be sold to another party on equivalent or more favorable terms.

The trustee or debtor in possession, as applicable, may seek sanctions or other similar relief against any party filing a spurious objection to this notice.

Applicant requests that F.R.B.P. 6004(g) not be applicable in this matter and that Trustee be able to immediately enforce and implement any Order Authorizing Sale of Assets Free and Clear of Liens associated with this Notice.

WHEREFORE, Applicant requests the Court to issue an Order Authorizing Sale of Assets Free and Clear of Liens, waiving F.R.B.P. 6004(g) as relates to the Order Authorizing Sale of Assets free and clear of liens as associated with this Notice thereby allowing Applicant/Trustee the right to immediately enforce and implement the Order Authorizing Sale of Assets Free and Clear of Liens and for such other and further relief as may be proper.



Ralph C. McCullough, II, Trustee
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District Court I.D. No.: 2786

Columbia, South Carolina
1/9, 2003.